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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,605	08/27/2003	Kenji Matsuda	00862.023196.	4238
5514	7590	01/11/2005		
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER GRAINGER, QUANA MASHELL	
			ART UNIT 2852	PAPER NUMBER

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/648,605	MATSUDA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Quana Grainger	2852	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 October 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-40 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Title***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-40 recite information relating to a detected toner density, an amount of toner used in the first developer agent storing section, and fluidity of toner but does not recite means to obtain this information.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 7, 8, 10-11, 20, 22-24, 26-28, 32-33, 35-36, and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al. (JP07-248677A) in view of Tsuchiya (JP2003-76131) in view of Isobe et al. (6,704,521).

Takahashi et al. teaches an image forming apparatus comprising first developing agent storing section which stores toner; a toner replenishment member; a controller which controls operation of the toner replenishment member on the basis of information about an amount of toner used in the first developing agent storing section (abstract). Takahashi et al. does not teach using information about the fluidity of the toner.

Tsuchiya teaches a first developing agent storing section which stores toner; a toner replenishment member; a controller which controls operation of the toner replenishment member on the basis of information about an amount of toner used in the first developing agent storing section and information about fluidity of the toner (abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teaching of Tsuchiya with the developing device of Takahashi et al. to prevent toner fogging (Tsuchiya; abstract: lines 1-9).

7. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al. (JP07-248677A) in view of Tsuchiya (JP2003-76131) and further in view of Isobe et al. (6,704,521).

The image forming apparatus by Takahashi et al. in view of Tsuchiya comprising first developing agent storing section which stores toner; a toner replenishment member; a controller which controls operation of the toner replenishment member on the basis of information about an amount of toner used in the first developing agent storing section and information about fluidity of the toner (abstract).

Takahashi et al. in view of Tsuchiya does not suggest a process cartridge. Isobe et al. teaches a process cartridge with a memory and a computer program housing a control method. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teaching of Takahashi et al. in view of Tsuchiya with the developing device of Isobe et al. to prevent toner fogging (Tsuchiya; abstract: lines 1-9).

***Prior Art***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nakamaru et al. teach pertinent prior art.

***Response to Arguments***

9. Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

***Contact Information***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quana Grainger whose telephone number is 571-272-2135. The examiner can normally be reached on M-F 7-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur Grimley can be reached on 571-272-2136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Quana Grainger  
Primary Examiner  
Art Unit 2852

QG